

HOUSE BILL No. 1093

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-1.1; IC 6-3.5-7-5.

Synopsis: Elkhart County CAGIT. Allows Elkhart County to impose the county adjusted gross income tax (CAGIT) at a rate of up to 1.25% (instead of 1%). Provides that the CAGIT revenue that is derived from the additional tax rate: (1) may be used only to pay the costs of financing, constructing, improving, acquiring, renovating, or equipping the county criminal justice buildings and related buildings and parking facilities; and (2) may be pledged to pay bonds issued or leases entered into for those purposes. Specifies that the term of the bonds (including any refunding bonds) or a lease may not exceed 20 years. Provides that any funds accumulated after the redemption of bonds or the final payment of lease rentals shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

Effective: Upon passage.

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January 8, 2002, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1093

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.5-1.1-2, AS AMENDED BY P.L.135-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) The county council of any county in
4 which the county option income tax will not be in effect on July 1 of a
5 year under an ordinance adopted during a previous calendar year may
6 impose the county adjusted gross income tax on the adjusted gross
7 income of county taxpayers of its county effective July 1 of that year.
8 (b) Except as provided in section 2.5, 2.7, **2.9**, or 3.5 of this chapter,
9 the county adjusted gross income tax may be imposed at a rate of
10 one-half of one percent (0.5%), three-fourths of one percent (0.75%),
11 or one percent (1%) on the adjusted gross income of resident county
12 taxpayers of the county. Any county imposing the county adjusted
13 gross income tax must impose the tax on the nonresident county
14 taxpayers at a rate of one-fourth of one percent (0.25%) on their
15 adjusted gross income. If the county council elects to decrease the
16 county adjusted gross income tax, the county council may decrease the
17 county adjusted gross income tax rate in increments of one-tenth of one

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percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year."

(d) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

SECTION 2. IC 6-3.5-1.1-2.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.9. (a) This section applies to a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).**

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

- (1) finance, construct, acquire, improve, renovate, or equip:**
 - (A) jail facilities;**
 - (B) juvenile court, detention, and probation facilities;**
 - (C) other criminal justice facilities; and**
 - (D) related buildings and parking facilities;**
- located in the county, including costs related to the demolition**



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of existing buildings and the acquisition of land; and
 (2) repay bonds issued or leases entered into for the purposes described in subdivision (1).

(c) In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

- (1) fifteen-hundredths percent (0.15%);
- (2) two-tenths percent (0.2%); or
- (3) twenty-five hundredths percent (0.25%);

on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (c). The tax rate may not be imposed at a rate greater than is necessary to pay the costs of carrying out the purposes described in subsection (b)(1).

(e) The county treasurer shall establish a criminal justice facilities revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the criminal justice facilities revenue fund before making a certified distribution under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for any or all the purposes described in subsection (b).

(g) Notwithstanding any other law, funds accumulated from the

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county adjusted gross income tax imposed under this section after:

(1) the completion of the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b);

(2) the payment or provision for payment of all the costs for activities described in subdivision (1);

(3) the redemption of bonds issued; and

(4) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 3. IC 6-3.5-1.1-10, AS AMENDED BY P.L.135-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) One-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of construction, improvement, or renovation of a jail under section 2.7 of this chapter; or

(3) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, or equipping facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.9 of this chapter; or

(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter;

distributions made to a county treasurer under subsection (a) shall be treated as though they were property taxes that were due and payable during that same calendar year. The certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(c) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.



SECTION 4. IC 6-3.5-1.1-11, AS AMENDED BY P.L.135-2001,
SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of operating a jail
and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of construction,
improvement, or renovation of a jail under section 2.7 of this
chapter; ~~or~~

(3) **revenue that must be used to pay the costs of:**

**(A) financing, constructing, acquiring, improving,
renovating, or equipping facilities and buildings;**

(B) debt service on bonds; or

(C) lease rentals;

under section 2.9 of this chapter; or

**(4) revenue that must be used to pay the costs of operating and
maintaining a jail and justice center under section 3.5(d) of this
chapter;**

the certified distribution received by a county treasurer shall, in the
manner prescribed in this section, be allocated, distributed, and used
by the civil taxing units and school corporations of the county as
certified shares and property tax replacement credits.

(b) Before August 2 of each calendar year, each county auditor shall
determine the part of the certified distribution for the next succeeding
calendar year that will be allocated as property tax replacement credits
and the part that will be allocated as certified shares. The percentage
of a certified distribution that will be allocated as property tax
replacement credits or as certified shares depends upon the county
adjusted gross income tax rate for resident county taxpayers in effect
on August 1 of the calendar year that precedes the year in which the
certified distribution will be received. The percentages are set forth in
the following table:

COUNTY	PROPERTY TAX	
ADJUSTED GROSS INCOME TAX RATE	REPLACEMENT CREDITS	CERTIFIED SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax
replacement credits shall be distributed as provided under sections 12,
13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified



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shares shall be distributed as provided by section 15 of this chapter.

SECTION 5. IC 6-3.5-7-5, AS AMENDED BY P.L.135-2001, SECTION 6, AS AMENDED BY P.L.185-2001, SECTION 3, AND AS AMENDED BY P.L.291-2001, SECTION 179, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
- (3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), ~~and~~ (g), ~~and~~ (k), the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h) ~~(i), or (j), or (k)~~, **through (l)**, the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the

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1 following:

2 "The _____ County _____ imposes the county economic
3 development income tax on the county taxpayers of _____
4 County. The county economic development income tax is imposed at
5 a rate of _____ percent (____%) on the county taxpayers of the
6 county. This tax takes effect July 1 of this year."

7 (e) Any ordinance adopted under this section takes effect July 1 of
8 the year the ordinance is adopted.

9 (f) The auditor of a county shall record all votes taken on ordinances
10 presented for a vote under the authority of this section and immediately
11 send a certified copy of the results to the department by certified mail.

12 (g) This subsection applies to a county having a population of more
13 than one hundred twenty-nine thousand (129,000) but less than one
14 hundred thirty thousand six hundred (130,600). In addition to the rates
15 permitted by subsection (b), the:

16 (1) county economic development income tax may be imposed at
17 a rate of:

18 (A) fifteen-hundredths percent (0.15%);

19 (B) two-tenths percent (0.2%); or

20 (C) twenty-five hundredths percent (0.25%); and

21 (2) county economic development income tax rate plus the county
22 option income tax rate that are in effect on January 1 of a year
23 may equal up to one and twenty-five hundredths percent (1.25%);
24 if the county income tax council makes a determination to impose rates
25 under this subsection and section 22 of this chapter.

26 (h) For a county having a population of more than thirty-seven
27 thousand (37,000) but less than thirty-seven thousand eight hundred
28 (37,800), the county economic development income tax rate plus the
29 county adjusted gross income tax rate that are in effect on January 1 of
30 a year may not exceed one and thirty-five hundredths percent (1.35%)
31 if the county has imposed the county adjusted gross income tax at a rate
32 of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

33 (i) For a county having a population of more than twelve thousand
34 six hundred (12,600) but less than thirteen thousand (13,000), the
35 county economic development income tax rate plus the county adjusted
36 gross income tax rate that are in effect on January 1 of a year may not
37 exceed one and fifty-five hundredths percent (1.55%).

38 (j) *For a county having a population of more than sixty-eight*
39 *thousand (68,000) but less than seventy-three thousand (73,000), the*
40 *county economic development income tax rate plus the county adjusted*
41 *gross income tax rate that are in effect on January 1 of a year may not*
42 *exceed one and five-tenths percent (1.5%).*



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(j) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(k) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-1.1-3, the county council of a county described in IC 6-3.5-1.1-2.9, as added by this act, may adopt an ordinance to increase the county's adjusted gross income tax rate after March 31, 2002, and before September 20, 2002.

(b) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under subsection (a) takes effect January 1, 2003.

(c) This SECTION expires January 2, 2003.

SECTION 7. An emergency is declared for this act.

